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PATENT & TRADEMARK
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PATENT
Attorney Docket No.: 80129-000100US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

JEREMY S. LEE *et al.*

Application No.: 10/061,979

Filed: January 31, 2002

For: BIOLOGICALLY ACTIVE
METAL-CONTAINING NUCLEIC
ACIDS

Examiner: M. Marvich

Art Unit: 1636

**RESPONSE TO RESTRICTION
REQUIREMENT**

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Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Restriction Requirement dated November 17, 2003,
which set forth the following groups of claims:

- I. Claims 1-4, 6-15 and 18-22 drawn to a method of producing an immune response in an animal and comprising administering a metal-containing nucleic acid duplex, classified in class 514, subclass 44; and
- II. Claims 1 and 5-14 and 16-22 drawn to a method of producing an antisense response in an animal comprising administering a metal-containing nucleic acid duplex.

Applicants elect to prosecute Group I, claims 1-4, 6-15 and 18-22. The basis for the restriction, however, is not well understood. The Examiner indicated that Group I is the method

of administering a metal-containing nucleic acid duplex for the purpose of detecting (producing) an immune response, and that Group II involves detecting (producing) an antisense response. Yet, only claim 5 recites that the physiological response is an antisense response. If anything, claim 5 could form the basis for Group II. Moreover, claims 16 and 17 refer specifically to immune responses, yet have been included in Group II, even though an immune response is the basis for formulating Group I.

Applicants respectfully note that the Examiner considers Claims 1 and 14 to be linking claims. Thus, Applicants request that upon allowance of the linking claims the restriction will be withdrawn and the other claims will be examined, as stated by the Examiner.

Applicants reserve the right to file a divisional or related application to the claims of the non-elected group.

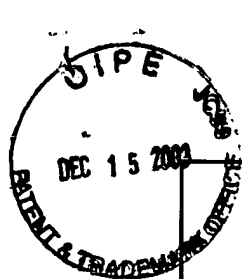
If a telephone conference would expedite this matter, the Examiner is respectfully encouraged to contact the undersigned accordingly.

Respectfully submitted,

Dated: December 12, 2003

By: Steven W. Parmelee
Steven W. Parmelee
Reg. No. 31,990

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PTO/SB/21 (08-03)

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/061,979
		Filing Date	January 31, 2002
		First Named Inventor	Jeremy S. Lee
		Art Unit	1636
		Examiner Name	M. Marvich
Total Number of Pages in This Submission	1	Attorney Docket Number	080129-000100US

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Restriction Requirement; Rebuttal Postcard
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Townsend and Townsend and Crew LLP Steven W. Parmelee Reg. No. 31,990
Signature	<i>Steven W. Parmelee</i>
Date	<i>Dec. 12, 2003</i>

CERTIFICATE OF TRANSMISSION/MAILING			
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Typed or printed name	Jennifer M. Smolen		
Signature	<i>Jm Smolen</i>	Date	<i>Dec. 12, 2003</i>